

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-1263911-D1
AND ALL OTHER SEAMAN'S DOCUMENTS
Issued to: Colin C. MACDONALD

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1924

Colin C. MACDONALD

This appeal has been taken in accordance with Title 46 United States Code 239 (g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 26 October 1970, an Administrative Law Judge of the United States Coast Guard at New York, N.Y., suspended Appellant's seaman's documents for nine months upon finding him guilty of misconduct. The specifications found proved allege that while serving as a fireman/watertender on board the SS TRANSPACIFIC under authority of the document above captioned, on or about 23, 24, 25, 26 and 27 May 1970, Appellant failed to perform duties by reason of intoxication at Manila, P.R.

At the hearing, Appellant did not appear. The Administrative Law Judge entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence voyage records of TRANSPACIFIC and a deposition of a witness.

There was no defense.

At the end of the hearing, the Administrative Law Judge rendered a written decision in which he concluded that the charge and specifications had been proved. The Administrative Law Judge then entered an order suspending all documents issued to Appellant for a period of nine months.

The entire decision was served on 2 March 1971. Appeal was timely filed on 31 March 1971. although he had until 5 July 1971 to add to his original appeal, Appellant has not done so.

FINDINGS OF FACT

On all dates in question, Appellant was serving as fireman/watertender on board SS TRANSPACIFIC and acting under authority of his document. On 23, 24, 26, and 27 May 1970,

Appellant failed to perform duties aboard TRANSPACIFIC by reason of intoxication.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. Appellant urges that some facts found are not facts and that he was at sea at the time of the hearing.

APPEARANCE: Pro se.

OPINION

I

Appellant's appeal does not really state grounds for appeal. He asks that his appeal be heard in New York because "I would like a hearing...." Appellant was given notice of hearing on 29 July 1970 for 2:00 PM on 18 August 1970. He chose not to appear at the time and place specified.

He says that he was at sea at the time of hearing. On the record before me I can say only that Appellant's being at sea at the time of hearing was his own choice. He had ample opportunity to appear for hearing. Once he defaulted on the original notice he was entitled to no further notice as to subsequent proceedings, even though the Judge attempted to give him notice as to subsequent proceedings. He had his opportunity to be heard and failed to use it.

ORDER

The order of the Administrative Law Judge dated at New York, N.Y., on 26 October 1970, is AFFIRMED.

T.R. SARGENT
Acting Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D.C., this 3rd day of May 1973.

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